

United States Court of Appeals for the Armed Forces
Washington, D.C. 20442-0001

In Re:)	<u>O</u> <u>R</u> <u>D</u> <u>E</u> <u>R</u>
)	
CHANGE OF RULES)	
)	
)	

Upon careful consideration of certain proposed changes to the Rules of Practice and Procedure, United States Court of Appeals for the Armed Forces, which were presented to and reviewed by the Rules Advisory Committee of the United States Court of Appeals for the Armed Forces and thereafter published in the Federal Register for comment, it is, by the Court this 4th day of June, 2007

ORDERED:

That effective August 1, 2007, Rule 24 is amended as provided in the attachment to this order, except that the provisions of Rule 24(f)(1)(D)-(F) will take effect on July 1, 2008. During the period from August 1, 2007 to July 1, 2008, compliance with the provisions of Rule 24(f)(1)(D)-(F) may be accomplished by including a list of items stated in those sections to which appellant or petitioner wishes to direct the Court's attention.

For the Court,

/s/ William A. DeCicco
Clerk of the Court

BRIEFS

RULE 24. FORM, CONTENT, AND PAGE LIMITATIONS

(a) **Form and content.** All briefs shall conform to the printing, copying, and style requirements of Rule 37, shall be legible, and shall be substantially as follows:

IN THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

UNITED STATES,)	
(Appellee))	
(Appellant))	BRIEF ON BEHALF
(Respondent))	OF (APPELLANT,
v.)	APPELLEE, ETC.)
)	
_____ (Full typed name, rank, & service of accused))	Crim.App. Dkt. No. _____
(Appellant))	
(Appellee))	USCA Dkt. No. _____
(Petitioner))	

Index of Brief

[See Rule 37(c)(1)]

Table of Cases, Statutes, and Other Authorities

Issue(s) Presented

[Set forth, in a concise statement, each issue granted review by the Court, raised in the certificate for review or mandatory review case, or presented in the petition for extraordinary relief, writ-appeal petition, or petition for new trial. Issues presented will be set forth in upper case letters.]

Statement of Statutory Jurisdiction

[Set forth the statutory basis of the Court of Criminal Appeals jurisdiction and the statutory basis for this Court's jurisdiction.]

Statement of the Case

[Set forth a concise chronology, including all relevant dates, to include: (A) the results of the trial; (B) actions of the intermediate reviewing authorities and the Court of Criminal Appeals; (C) the disposition of a petition for reconsideration or rehearing, if filed; and (D) any other pertinent information regarding the proceedings, *including, where applicable, the date the petition for review was granted.*]

Statement of Facts

[Set forth a concise statement of the facts of the case material to the issue or issues presented, including ~~specific~~ *page* references to each relevant portion of the record of trial. Answers may adopt the appellant's or petitioner's statement of facts if there is no dispute, may state additional facts, or, if there is a dispute, may restate the facts as they appear from the appellee's or respondent's viewpoint. The repetition of uncontroverted matters is not desired.]

References to the Record

References to the parts of the record contained in the Joint Appendix filed with the appellant's brief must be to the pages of the Joint Appendix.

Summary of Argument

[Each brief and answer shall contain a summary of argument, suitably paragraphed to correspond to each issue presented. The summary should be a succinct but accurate and clear condensation of the arguments made in the body of the brief.]

Argument

[Discuss briefly the point of law presented, citing and quoting such authorities as are deemed pertinent. *The argument must also include for each issue presented a statement of the applicable standard of review. The standard of review may appear in the discussion of each issue or under a separate heading.*]

Conclusion

[State the relief sought as to each issue presented, for example, reversal of the Court of Criminal Appeals decision and

dismissal of the charges, grant of a new trial, the extraordinary relief sought, etc. No particular form of language is required, so long as the brief concludes with a clear prayer for specific Court action.]

(Signature of counsel)

(Typed name of counsel)

(Address of counsel)

(Telephone no. of counsel)

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was [delivered] (or) [mailed-*specify class*] (or) [delivered to-*specify the name of the third-party commercial carrier-for delivery and specify within how many days delivery will be effected*] to the Court and [delivered] (or) [mailed-*specify class*] (or) [delivered to-*specify the name of the third-party commercial carrier-for delivery and specify within how many days delivery will be effected*] (or) [transmitted by electronic means with the consent of the counsel being served] to _____
_____ on _____.
(email or facsimile no.) (date)

Where more than one counsel or party is being served, the certificate should specify how each party or counsel was served.

(Typed name and signature)

(Address and telephone no.)

(b) Page limitations. Unless otherwise authorized by order of the Court or by motion of a party granted by the Court (see Rule 30), or by Rule 24(c), the page limitations for briefs

filed with the Court, not including appendices, shall be as follows:

(1) Briefs of the appellants/petitioners shall not exceed 30 pages;

(2) Answers of the appellees/respondents shall not exceed 30 pages;

(3) Replies of the appellants/petitioners shall not exceed 15 pages.

(c) Type-volume limitations.

(1) A brief of the appellants/petitioners and an answer of the appellees/respondents is acceptable if:

- it contains no more than 14,000 words; or
- contains no more than 1,300 lines of text.

(2) A reply is acceptable if it contains no more than half of the type-volume specified in Rule 24(c)(1).

(3) Headings, footnotes, and quotations count toward the word and line limitations. The index, table of cases, statutes, and other authorities, the appendix and any certificates of counsel do not count toward the limitation.

(d) Certificate of Compliance. A brief submitted under Rule 24(c) must include a certificate stating that the brief complies with the type-volume limitation and Rule 37. The person preparing the certificate may rely on the word or line count of the word-processing system used to prepare the brief. The certificate must state either:

- (i) the number of words in the brief; or
- (ii) the number of lines of monospaced type in the brief.

(e) Form of Certificate of Compliance.

CERTIFICATE OF COMPLIANCE WITH RULE 24(d)

1. This brief complies with the type-volume limitation of Rule 24(d) because:

*[principal brief may not exceed 14,000 words or 1,300 lines;
reply or amicus brief may not exceed 7,000 words or 650 lines;
line count can be used only with monospaced type]*

☐ This brief contains _____ *[state the
number of]* words,

or

☐ This brief contains _____ *[state the
number of]* lines of text.

2. This brief complies with the typeface and type style requirements of Rule 37 because:

*[12-point font must be used with monospaced typeface, such as
Courier or Courier New]*

☐ This brief has been prepared in a monospaced
typeface using _____
*[state name and version of word processing
program, e.g., Microsoft Word Version 2000 with

[state number of characters per inch and name
of type style].*

/s/ _____

Attorney for _____

Dated: _____

(f) Joint Appendix. The appellant or petitioner shall be responsible for filing eight copies of a Joint Appendix, which shall be a separate document filed contemporaneously with the brief.

(1) Contents. The Joint Appendix shall contain:

- (A) a copy of the decision of the Court of Criminal Appeals;
- (B) copies of unpublished opinions cited in the brief of the appellant or petitioner; the appellee or respondent will include copies of unpublished opinions cited in its brief as an attachment to its brief;
- (C) relevant extracts of rules and regulations;
- (D) relevant docket entries from the proceeding below;
- (E) relevant portions of the pleadings, charges, findings from the proceeding below; and
- (F) other parts of the record of trial to which the parties wish to direct the Court's attention set out in chronological order.

(2) Format. The Joint Appendix will be produced on 8 ½ by 11 inch white paper, be bound in a manner that is secure and does not obscure the text, and will permit the contents to lie reasonably flat when open. The cover must be white and contain the caption of the case and docket number. The cover shall be followed by a table of contents. Pages in the Joint Appendix shall be sequentially numbered in a manner that does not obscure any page numbers reflected in the record of trial. If the Joint Appendix consists of less than 100 pages, it may be reproduced by single-sided or double-sided copying. If it consists of 100 pages or more, the Joint Appendix shall use double-sided copying.

Classified material or matters under seal that are to be included in a Joint Appendix shall be submitted in a separate volume, clearly designated as containing classified or sealed material. Classified material will be handled in accordance with Rule 12.

(3) Deadline. Unless otherwise ordered by the Court, the Joint Appendix shall be filed contemporaneously with the brief of the appellant or petitioner. If a cross-appeal is filed, a single Joint Appendix shall be filed for both appeals subject to a briefing schedule established by the

Clerk. The appellant or petitioner shall serve one copy on opposing counsel.

(4) Agreement and Designation. The parties are encouraged to agree on the contents of the Joint Appendix. In the absence of agreement, the appellant or petitioner must, within 10 days of the order granting the petition, the filing of a certificate for review by a Judge Advocate General, the notice of the docketing of a mandatory review case, or the filing of a petition for new trial, petition for extraordinary relief or a writ appeal petition, serve on the appellee or respondent a designation of the issues to be raised on appeal and of the parts of the record to be included in the Joint Appendix. The appellee or respondent may, within 10 days after receiving the designation, serve on the appellant or petitioner a designation of the additional parts of the record to draw to the attention of the Court. The appellant or petitioner must include the parts designated by the appellee or respondent in the Joint Appendix. The parties must avoid engaging in unnecessary designation of parts of the record because unnecessary designation is wasteful, and the entire record is available to the Court. In the event a cross-appeal is filed, the deadlines for designations shall be established by the Clerk.

(5) Dispensing With Requirement. The Court, on its own motion or that of a party, may dispense with the requirement for a Joint Appendix and may permit a case to be heard on the original record with any copies of the record or parts thereof that the Court may order the parties to file.